

2009 DRAFTING REQUEST**Bill**Received: **09/05/2008**Received By: **mglass**Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**By/Representing: **Sarah Barry**This file may be shown to any legislator: **NO**Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - nav. waters**

Extra Copies:

Submit via email: **YES**Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Designation of Brunsweler River as wild river

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							State
/P1	mglass 11/24/2008	kfollett 11/25/2008	jfrantze 11/25/2008		lparisi 11/25/2008		State
/1	mglass 12/23/2008	bkraft 12/23/2008	rschluet 12/23/2008		sbasford 12/23/2008	mbarman 01/07/2009	

FE Sent For: **"1" @ intro. 1/15/09**

<END>

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FE Sent For:

1 bjk 12/23

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/?	mglass	1/15/08 11/25	11/25	And 11/25			

FE Sent For:

<END>

Gibson-Glass, Mary

From: Barry, Sarah
Sent: Friday, August 22, 2008 1:33 PM
To: Gibson-Glass, Mary
Subject: Brunsweler River Wild River Designation
Attachments: Version 1.7 Feb-2008.doc; Brunsweler River, Physical Characteristics.doc

Hi Mary:

[REDACTED] I am also attaching a description of the physical characteristics of the Brunsweler River the Rivers Alliance put together. The section of the river to be included is the section within the Forest Service Boundary. I will work with the DNR to get the exact language for the starting and stopping points of the designation.

The management of Wisconsin's wild rivers is outlined in Chapter NR 302.

Thank you & I will be in touch soon.

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

From: Bartilson, Kathy M - DNR [mailto:Kathy.Bartilson@Wisconsin.gov]
Sent: Monday, August 18, 2008 10:55 AM
To: Barry, Sarah
Cc: Larson, Nancy J - DNR; Fitzgerald, Kathryn I - DNR
Subject: draft statute language

[REDACTED]
what this portion of Chapter 30 would look like if the [REDACTED] er.

<<Version 1.7 Feb-2008.doc>>

[REDACTED]
[REDACTED] Senator Jauch is interested in advancing a bill to name [REDACTED]
[REDACTED] will be sending us more [REDACTED]

Kathy

 *Kathy Bartilson*

St. Croix Basin Watershed Supervisor
Wisconsin Department of Natural Resources
Northern Region-Spooner Service Center
810 West Maple
Spooner, WI 54801

09/05/2008

(☎) phone: (715) 635-4053

(☎) fax: (715) 635-4105

(✉) e-mail: Kathy.Bartilson@Wisconsin.gov

The Brunsweler River

The Brunsweler River winds its way approximately 25 miles through Ashland County, primarily within the Chequamegon-Nicolet National Forest. It begins in a marshy area deep in the forest at the very top of the Lake Superior basin in the ancient Penoque Mountains, flowing north into Spider and Moquah Lakes, continuing north and dropping in elevation through Mineral and Beaverdam Lakes, then northwest out of the National Forest through the Town of Marengo to its confluence with the Marengo River on the Bad River Reservation. The Brunsweler is highly regarded for its trout fishing, bird watching, fern and wildflower viewing, and whitewater kayaking.

Physical Characteristics

The Brunsweler River changes from a warm water drainage stream at the top of the Penoque-Gogebic Range, to a rocky, hard-bottomed high-gradient river in its midsection as it flows out of the mountains, and finally back to a warmer low-gradient river at its outlet. The Penoque-Gogebic Range is described as a Legacy Place in the Wisconsin Land Legacy Report. The principal tributaries contributing to the river's flow are Spider Creek, Hell Hole Creek, Camp Six Creek and several unnamed streams. Trout streams include McCarthy Creek, Spring Brook, Trout Brook and other unnamed streams. The river is considered highly scenic, but not very navigable due to the rugged river bed.

A high quality northern hardwood swamp, the Spider Lake Black Ash Swamp, is situated at the headwaters of the river. It is designated a Research Natural Area by the U.S. Forest Service, and it is a State Natural Area. Situated at the top of the Great Divide within the Chequamegon-Nicolet National Forest, the swamp is perched on Precambrian granite and consists of pools and kettles of standing and flowing water draining east to Spider and Moquah Lakes. The swamp is dominated by black ash with red maple, paper birch, white cedar, and white spruce, an assortment of shrubs, ferns and mosses, and supports a diverse array of birds including the great-crested flycatcher, veery, black-and-white, northern parula, and black-throated green warblers, northern waterthrush, and the yellow-bellied flycatcher (*Empidonax flaviventris*), a species of special concern in Wisconsin.

103 acre Spider Lake and 50 acre Moquah Lake are natural, glacially-created lakes surrounded by wetlands. The Brunsweler continues from the mouth of Moquah Lake, flowing north for about three miles through continued wetland areas at a fairly low gradient suitable to warm water forage fish, and into 225 acre Mineral Lake, also a natural glacial lake. Below Mineral Lake, the Brunsweler begins its drop to Lake Superior with high gradients and deeply-cut chasms. As it passes along valleys at the feet of the Penoque - Gogebic Range, the water quality and river characteristics change markedly. The erosive power of the river has created numerous streamside cliffs, both open and shaded, some of which harbor a large population of the rare fragrant fern. This stretch contains slack water, in the form of shallow pools, interspersed with rapids flowing over large, granite boulders. A half mile section of the river, from Mineral Lake to Mineral Lake Road, has been graded as Class III-IV whitewater according to American Whitewater. However brief, this stretch is known to paddlers for its beautiful scenery and big drops – at least for one or two weeks in the spring.

This section of river is also located within the USFS Brunsweler River Gorge Special Management Area, characterized by a mile-long gorge, granite cliffs, hemlock, white pine, upland cedar and several rare plants. Interior forest birds such as the black throated blue warbler, winter wren, pileated woodpecker, oven bird, hermit thrush and woodland raptors can be spotted in the forests surrounding the river. As well as a site for these birds, most northern Wisconsin fern species and spring wildflowers find habitat here. A rare species of dragonfly has also been recorded on the river.

The Brunsweler continues north, passing under FS Road 187 and then under a footbridge along the North Country Scenic Trail just south of 118 acre Beaverdam Lake, a long, narrow reservoir formed by an 18 foot dam. From the outlet of Beaverdam Lake north to Highway 13, this 10.3 mile section is graded as Class II-III whitewater by American Whitewater, and is a popular trout fishing area. Especially below the confluence of Spring Brook Creek, brook, brown and rainbow trout are common. The Brunsweler leaves the Chequamegon-Nicolet National Forest approximately four miles below Beaverdam Lake, winding its way north and east through farm land to the Bad River Reservation. The stretch from Highway 13 to its confluence with the Marengo River is considered a warm water sport fishery including muskellunge, smallmouth bass, perch, bluegills, black crappies, rock bass, pumpkinseeds, and a variety of forage species.

Management

The headwaters and much of the river has been under the ownership of the US Forest Service since the establishment of the forest in the 1930s. The National Forest originated from land purchased in response to the extensive logging and subsequent abandonment that took place throughout the region beginning in the mid 19th century. The length of the river owned by the USFS increased in the late 1960s as local resident Martin Hanson donated more than 1,200 acres of land to the University of Wisconsin which was subsequently purchased by the USFS.

The Brunsweler River, from its source to its confluence with the Marengo River but excluding Spider, Moquah, Mineral and Beaverdam Lakes along the way, is designated by the state as an Outstanding Resource Water. Its current state-designated uses are fish and aquatic life, public water supply, fish consumption, and recreation use. As of 2006, three out of the four of these categories have not been assessed and the fourth use (fish and aquatic life) has insufficient information for assessment.

There are no point-sources of pollution to the river, and the Outstanding Resource Water designation precludes any new point sources. Nonpoint sources of pollution could include agricultural livestock and cropland north of the National Forest. Within the National Forest, the Forest Service restricts forest activities within 300 feet of the river to reduce potential impacts from logging. Other impacts to the river are aquatic invasive species and iron deposition.

Gibson-Glass, Mary

From: Barry, Sarah
Sent: Monday, September 08, 2008 8:40 AM
To: Gibson-Glass, Mary
Subject: FW: Brunsweler River Wild River Designation
Attachments: Version 1.7 Feb-2008.doc; Brunsweler River, Physical Characteristics.doc

Hi Mary,

I have communicated with DNR regarding language to precisely define the boundaries of the Wild River designation for the Brunsweler (I am including my previous note here). I am waiting to hear back from them. We will also need to add some additional language allowing for river restoration if the damn deteriorates/fails at some point. This would only mean that the Forest Service could mitigate problems along the bank if necessary, but keeping with the integrity of the Wild River concept. I will get you both pieces of information as soon as possible.

In the meantime, Senator Jauch is interested in introducing the Totogatic Wild River designation as a separate bill. The Version 1.7 attached can serve as a template. Please let me know what, if any, additional information you need to get that bill drafted. I am available by phone or e-mail all week.

Thank you,

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

From: Barry, Sarah
Sent: Friday, August 22, 2008 1:33 PM
To: Gibson-Glass, Mary
Subject: Brunsweler River Wild River Designation

Hi Mary:

Here is the current language for the Totogatic, which Senator Jauch will also be introducing next session. I am also attaching a description of the physical characteristics of the Brunsweler River the Rivers Alliance put together. The section of the river to be included is the section within the Forest Service Boundary. I will work with the DNR to get the exact language for the starting and stopping points of the designation.

The management of Wisconsin's wild rivers is outlined in Chapter NR 302.

Thank you & I will be in touch soon.

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

10/03/2008

From: Bartilson, Kathy M - DNR [mailto:Kathy.Bartilson@Wisconsin.gov]
Sent: Monday, August 18, 2008 10:55 AM
To: Barry, Sarah
Cc: Larson, Nancy J - DNR; Fitzgerald, Kathryn I - DNR
Subject: draft statute language

Hello Sarah - it's exciting to hear things are moving on the Wild River proposal. Here's the most recent draft of what this portion of Chapter 30 would look like if the Totogatic is named a Wild River.

<<Version 1.7 Feb-2008.doc>>

Nancy and Kate - Sarah may be in touch with you, as Senator Jauch is interested in advancing a bill to name portions of the Brunsweller soon. Sarah will be sending us more information on that plan via e-mail.

Kathy

 *Kathy Bartilson*

St. Croix Basin Watershed Supervisor
Wisconsin Department of Natural Resources
Northern Region-Spooner Service Center
810 West Maple
Spooner, WI 54801

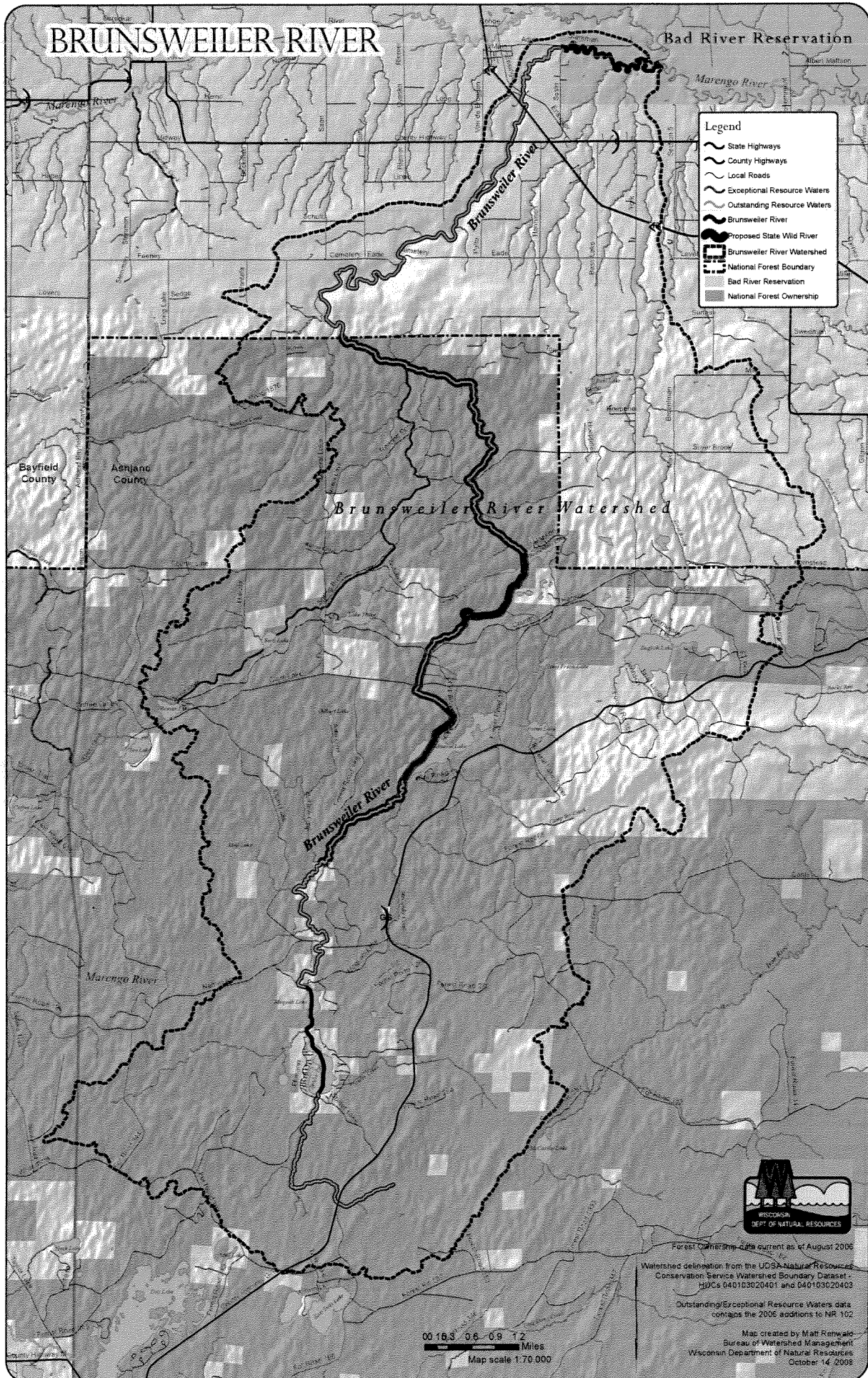
(📞) phone: (715) 635-4053
(📞) fax: (715) 635-4105
(✉️) e-mail: Kathy.Bartilson@Wisconsin.gov

BRUNSWEILER RIVER

Bad River Reservation

Legend

- State Highways
- County Highways
- Local Roads
- Exceptional Resource Waters
- Outstanding Resource Waters
- Brunswweiler River
- Proposed State Wild River
- Brunswweiler River Watershed
- National Forest Boundary
- Bad River Reservation
- National Forest Ownership



Forest Ownership data current as of August 2006

Watershed delineation from the USGS National Resources Conservation Service Watershed Boundary Dataset - HUCs 040103020401 and 040103020403

Outstanding/Exceptional Resource Waters data contains the 2006 additions to NR 102

Map created by Matt Refswald
Bureau of Watershed Management
Wisconsin Department of Natural Resources
October 14, 2008

0.0 0.5 1.0 1.5 2.0
Miles
Map scale 1:70,000

Burnswater

outstanding issues: Mineral

- include ~~Mission~~ Lake in Burnswater?
if so legal description needs to
be changed

- ^{no} dams shall be "permitted" in 302.04
what does this mean?

^{Sarah} will contact appropriate DNR attorney
re: Beaver ~~Dam~~ Lake dam

DNR to remember be able to remove
dam and restore channel etc.

Gibson-Glass, Mary

From: Barry, Sarah
Sent: Monday, November 17, 2008 8:20 AM
To: 'Lori Grant'; Bartilson, Kathy M - DNR; Larson, Nancy J - DNR; Jerow, Thomas S - DNR; 'Connie Chaney (cchaney@fs.fed.us)'
Cc: Sen. Jauch; 'Bob Jauch'; Gibson-Glass, Mary
Subject: Wild Rivers Call Today

Attachments: Brunswailer_11x17_2.pdf; Version 1.7 Feb-2008.doc; 09-01421.pdf

Good Morning,

In preparation for our call this afternoon I am sending a summary of plans for both the Brunswailer designation bills Senator Jauch plans to introduce at the beginning of next session in January. I am hoping to speak with the drafting attorney before our call this afternoon. Please let me know if I have failed to include any information you would like to discuss.

The call information is as follows:

Time: 3:30 pm
Number: 1-888-273-3658
Access Code: 1543478

1. Brunswailer River

Map of the section under consideration:



Brunswailer_11x17_2.pdf (2 MB)...

Brunswailer only adjoining to U.S. Forest land wild river designation includes impoundments (unlike out-standing resource water designation) include Mineral Lake
honorary 23.25 (not officially) named

- The portion of the Brunswailer River to be designated should be termed the "Martin Hanson Wild River."
- Brunswailer River Wild Rivers Statute Description: 30.26 Wild Rivers (2) Definition
 - Add: and segments of the Brunswailer River as identified below,
 - Add: The portions of the Brunswailer River designated as a wild river are as follows:
 - Reach 1: From the point at which the Brunswailer River finally leaves the SW1/4 SW 1/4 Section 22, T.44N.-R.4W. Ashland County to the inlet of Mineral Lake in Ashland County.
 - Reach 2: From the outlet of Mineral Lake in Ashland County to the point at which the Brunswailer River crosses the National Forest Boundary in the NW1/4 Section 22, T.45N.-R.4W. Ashland County.
- The following language should be included in the bill draft:
 - Stream and channel restoration may be allowed on the Brunswailer River in Section 36, T45N, R04W and Sections 1 & 2, T44N, R04W, Town of Marengo, Ashland County for the purposes of restoring historical stream configurations. The Department of Natural Resources may issue permits under Wisconsin Chapter 30, Stats. for any activities necessary to restore the stream channel.

Proposed Statutory Language for the



Version 1.7
eb-2008.doc (42 K.)

Current Draft Language:



09-01421.pdf (13
KB)

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

608-266-3510 (office)

608-216-4355 (cell)

Gibson-Glass, Mary

From: Barry, Sarah
Sent: Tuesday, November 18, 2008 12:32 PM
To: Bartilson, Kathy M - DNR; Larson, Nancy J - DNR; Jerow, Thomas S - DNR; 'Lori Grant'; 'Connie Chaney (cchaney@fs.fed.us)'; Gibson-Glass, Mary
Cc: Sen.Jauch; 'Bob Jauch'
Subject: Wild Rivers Summary

Attachments: Brunswailer_11x17_2.pdf

Wild Rivers Work Group,

Thank you for participating in the meeting yesterday afternoon. I am including here the outstanding issues on each bill we will address in the next few days.

1. Brunswailer River

Map of the section under consideration:



Brunswailer_11x17
_2.pdf (2 MB)...

- Technical description of the reach included in the designation will include both the plain language description and the more technical description.
- **Mineral Lake.** The descriptions of the portions of the Brunswailer in the current drafted language do not include Mineral Lake. Mineral Lake could be included to maintain the integrity of the designation throughout the section of the river to be identified as a Wild River. Mineral Lake includes a pier used and managed by the Forest Service. The Forest Service will maintain and repair this pier for the use of visitors to the area. Language allowing maintenance and repair of the pier could be included in the bill draft. There is one other pier on the lake on property leased by a private individual. The Forest Service is checking into the lease terms for that property and pier.
- **Beaverdam Lake.** The dam on Beaverdam Lake may need to be addressed in the bill. Sarah will contact DNR attorney Megan Borell to discuss the need for language to allow the dam to exist as it is and to allow for stream and channel restoration should the dam deteriorate at some point in the future.
- Community support--the issue of support for the Brunswailer Wild River Designation is a planned Superior Days topic.

include Mirror Lake

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

Gibson-Glass, Mary

From: Barry, Sarah
Sent: Thursday, November 20, 2008 12:01 PM
To: Gibson-Glass, Mary
Subject: Pier & Boat Landing, Brunsweller River

Mary,

Per our discussion, the Forest Service-maintained boat landing includes both a pier and a boat landing. As I mentioned the boat landing is currently made out of native materials (gravel), but the Forest Service is planning to upgrade it to concrete to allow for use for the years to come. The Forest Service has already purchased the concrete slabs they intend to use to make the needed modifications. Please let me know if you need a more detailed description of the boat landing/pier.

Thank you again for your help with this bill.

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

608-266-3510 (office)

608-216-4355 (cell)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0143/1

MGG...

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: designating a portion of the Brunsweler River as a wild
2 river.

Analysis by the Legislative Reference Bureau

Under current law, the legislature may designate rivers as part of the state's wild river system. The Department of Natural Resources administers the system to preserve, protect, and enhance the river's natural beauty and unique recreational values. This bill adds to the wild river system a portion of the Brunsweler River and requires that this portion of the river be known as the "Martin Hanson Wild River". The bill also specifically authorizes DNR to remove a dam and the United States Forest Service to maintain, repair, and replace a boat landing and pier in the designated area.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 30.26 (2) of the statutes is renumbered 30.26 (2) (a) and amended
4 to read:
5 30.26 (2) (a) The following rivers, or portions of rivers, are designated as wild
6 rivers:

1. The Pike River in Marinette County, and the

2. The Pine River and its tributary Popple River in Florence and Forest
counties ~~are designated as wild rivers and~~.

(b) The rivers designated under par. (a) shall receive special management to
assure their preservation, protection and enhancement of their natural beauty, and
their unique recreational and other inherent values in accordance with guidelines
outlined in this section.

History: 2003 a. 248.

SECTION 2. 30.26 (2) (a) 3. of the statutes is created to read:

30.26 (2) (a) 3. The portion of the Brunsweler River, described as follows: from
the point at which the Brunsweler River finally leaves the SW-1/4 of Sec. 22, T. 44
N., R. 4 W. downstream to the point at which the Brunsweler River crosses the
boundary of the Chequamegon-Nicolet National Forest in the NW-1/4 of Sec. 22,
T. 45 N., R. 4 W. This portion of the Brunsweler River shall be known as the Martin
Hanson Wild River.

SECTION 3. 30.26 (4) (title) of the statutes is repealed and recreated to read:

30.26 (4) (title) SNOWMOBILES AND ALL-TERRAIN VEHICLES.

SECTION 4. 30.26 (5) of the statutes is created to read:

30.26 (5) BRUNSWELER RIVER. As part of the management of the designated
portion of the Brunsweler River, all of the following shall apply:

(a) The department may either maintain or remove the dam in Beaver Dam
Lake that is in place on the effective date of this paragraph [revisor inserts date].
If the department removes the dam, the department may carry out restoration
activities to restore the natural appearance of the lake and the river.

1

(b) The United States Forest Service ^{U.S.} may maintain or replace the boat landing

2

or the pier on Mineral Lake that are in place on the effective date of this paragraph ✓

3

....^{LRB}[revisor inserts date]. Any replacement of the pier shall meet the requirements

4

relating to size and the number of boat slips set forth in s. 30.12 (1f) (g).

5

(END)

(1g) (f)

D-Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0143/?dn

MGG...
pl
gf

Date

✓
1. I did not add the language concerning chapter 30 permits for the river restoration in the case of the dam in Beaver Dam Lake being removed. The language is not necessary because DNR already has that authority to issue permits. Also, I am not sure whether DNR issues chapter 30 permits to itself or if the U.S. Forest Service would need to get a DNR permit. If you think some additional language is needed please call me.

7
2. I have not taken any steps to insure ensure the accuracy of the legal description, but I did take out one "SW 1/4" in the legal description contained in Sarah's e-mail dated November 17, 2008, because the phrase was set forth twice. Please check the legal description carefully. The abbreviations used in the description are the ones we use for the statutes.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0143/P1dn
MGG:kjf:jf

November 25, 2008

1. I did not add the language concerning chapter 30 permits for the river restoration in the case of the dam in Beaver Dam Lake being removed. The language is not necessary because DNR already has that authority to issue permits. Also, I am not sure whether DNR issues chapter 30 permits to itself or if the U.S. Forest Service would need to get a DNR permit. If you think some additional language is needed please call me.
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Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

Gibson-Glass, Mary

From: Correll, Megan E - DNR [Megan.Correll@wisconsin.gov]
Sent: Tuesday, December 09, 2008 1:57 PM
To: Barry, Sarah
Cc: Gibson-Glass, Mary
Subject: RE: Brunsweiler Wild River Designation--Dam Issue

Sarah,

I have not forgotten about you, but it has taken some time to meet internally on the issue raised by this wild river designation. My suggestion would be that I speak directly with Mary Gibson-Glass since she is drafting the legislation.

Mary,

Could we set up a time to discuss this issue and others related to the wild rivers designations for Totogatic and Brunsweiler sometime next week? I plan to be out of the office from Dec. 23rd through the holiday, so I'd like to assist in any way that I can prior to that leave.

 *Megan E. Correll*

Attorney

Bureau of Legal Services

Wisconsin Department of Natural Resources

(P) phone: (608) 266-2132

(F) fax: (608) 266-6983

(E) e-mail: megan.correll@wisconsin.gov

From: Barry, Sarah [mailto:Sarah.Barry@legis.wisconsin.gov]
Sent: Tuesday, November 18, 2008 3:09 PM
To: Correll, Megan E - DNR
Cc: Gibson-Glass, Mary - LEGIS
Subject: Brunsweiler Wild River Designation--Dam Issue

Hi Megan,

Thank you for your assistance with the legislation Senator Jauch is drafting to designate the Brunsweiler a Wild River. As I mentioned, the current potential language that will be included in the bill draft allows for stream channel restoration on the Brunsweiler on the section of the river that may be affected if the dam on Beaver Dam Lake were to deteriorate at some point. The question: should the dam be addressed directly in the statute? Considering the current Wild River statutory language and rules, is it necessary to make an allowance for the dam as it exists now?

Here are some further details regarding the Brunsweiler designation plans:

1. **Brunsweiler River**

Map of the section under consideration:

<<Brunsweiler_11x17_2.pdf>>

- The portion of the Brunsweiler River to be designated should be termed the "Martin Hanson Wild River."
- Brunsweiler River Wild Rivers Statute Description: 30.26 Wild Rivers (2) Definition
- Add: and segments of the Brunsweiler River as identified below,
- Add: The portions of the Brunsweiler River designated as a wild river are as follows:
- Reach 1: From the point at which the Brunsweiler River finally leaves the SW1/4 SW ¼ Section 22, T.44N.-R.4W. Ashland County to the inlet of Mineral Lake in Ashland County.
- Reach 2: From the outlet of Mineral Lake in Ashland County to the point at which the Brunsweiler River crosses the National Forest Boundary in the NW1/4 Section 22, T.45N.-R.4W. Ashland County.
- The following language should be included in the bill draft:

Stream and channel restoration may be allowed on the Brunsweiler River in Section 36, T45N, R04W and Sections 1 & 2, T44N, R04W, Town of Marengo, Ashland County for the purposes of restoring historical stream configurations. The Department of Natural Resources may issue permits under Wisconsin Chapter 30, Stats. for any activities necessary to restore the stream channel.

Please give me a call to discuss this further as needed. If you think it makes sense to coordinate a meeting with Mary Gibson-Glass as well please let me know. I cc'd her on this message. Thank you for your assistance.

Sarah Barry

Office of State Senator Bob Jauch
118 South, State Capitol
608-266-3510 (office)
608-216-4355 (cell)

Gibson-Glass, Mary

From: Barry, Sarah
Sent: Tuesday, December 09, 2008 4:03 PM
To: Gibson-Glass, Mary; Correll, Megan E - DNR
Subject: RE: Brunsweler river draft

Mary,

I communicated with Joe Renville, the DNR attorney who handles real estate issues. He just got back to me yesterday and he is reviewing the descriptive language we have right now. His feeling is that the technical description and the plain language description should ideally be incorporated in the final description of the sections of the rivers. He did note that the other rivers currently designated as Wild Rivers use only the boundary of the county as the description, but the more precise language in these drafts is preferable.

Regarding the dam allowances, I agree that we need to understand the Forest Service jurisdiction over the dam with the Wild River designation in place (and its current jurisdiction without the designation). I spoke with Connie Chaney at the Forest Service and she indicated that the Forest Service is most likely to let the dam deteriorate naturally, but they would like to have the legal authority to maintain the dam and remove it.

Camilla Hanson (Martin Hanson's sister-in-law) lives on Beaver Dam Lake and she is unlikely to be supportive of language in the bill that directly states that the Forest Service or DNR has the authority to remove the dam. Removal of the dam would seriously impact her property. Tia Nelson is planning to meet with Camilla and show her the draft language as soon as it is finalized. Is it possible in section 30.26(5)(a) to allow stream bed restoration if the dam deteriorates or is removed, but not mention permission to remove the dam? I am not sure that even makes sense.

Thank you & I will follow up with the language re: the geographical boundaries of the designation for both rivers.

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

608-266-3510 (office)

608-216-4355 (cell)

From: Gibson-Glass, Mary
Sent: Tuesday, December 09, 2008 2:38 PM
To: Barry, Sarah; Correll, Megan E - DNR
Subject: Brunsweler river draft

Sarah and Megan,

I am attaching a copy of the Brunsweler draft and its accompanying drafter's note.

Megan agrees with me that there needs to be some language to address the dam due to the administrative rule that does not permit dams in wild rivers. Megan and I are meeting on the Brunsweler draft on December 17th. Sarah, before then, it would be helpful for me to know what the interested parties want for the dam, as we discussed in our last telephone conversation, that is to be able to maintain it, to remove it, or to take a hands off approach and let it naturally deteriorate.

Sarah, as to #2 in my drafter's note, I think I made an error in dropping that "SW ¼". Again please have someone review the legal description carefully.

Megan, as to #1 in my drafter's note, my question is that if the Forest Service wants to replace the pier or remove the dam or do anything that might require a regular landowner to get a DNR ch. 30 or 31 permit, is the US forest service exempt from such permitting process? I am asking this because there exists in the original drafting instructions the following statement to this effect: If the dam is to be removed or deteriorates, DNR may issue permits under ch. 30 for any activities

necessary to restore the stream channel. At the time I thought DNR owned the dam but since it is the USFS I need to know if they would need such permits.

Thanks so much,

Mary Gibson-Glass
Legislative Reference Bureau
267 3215

<< File: 09-0143/P1 >> << File: 09-0143/P1dn >>

Gibson-Glass, Mary

From: Renville, Joe W - DNR [Joe.Renville@Wisconsin.gov]
Sent: Tuesday, December 09, 2008 3:40 PM
To: Barry, Sarah
Cc: Gibson-Glass, Mary; Correll, Megan E - DNR
Subject: RE: Wild River Designation Bills Language

Sarah,

Here is my attempt to combine the two descriptions (geographic location description and U.S. public survey land system legal description) for the river sections to be designated as Wild Rivers in Wisconsin:

SECTION 2. 30.26 (2) (a) 3. of the statutes is created to read:

30.26 (2) (a) 3. The portion of the Brunsweler River described as follows: from the point at which the Brunsweler River leaves the Southwest Quarter of Section 22, Township 44 North, Range 4 West downstream to the point at which the Brunsweler River crosses the boundary of the Chequamegon-Nicolet National Forest located in the Northwest Quarter of Section 22, Township 45 North, Range 4 West. This portion of the Brunsweler River shall be known as the Martin Hanson Wild River.

With this description, the beginning point is at the edge of a private inholding, so the use of the legal description is appropriate. With the following descriptions, one could possibly use either type of description. What I call the "geographic" description, is what is used in the federal Wild Rivers Act language.

~~The portion of the Brunsweler River is as follows:~~

~~Reach 1: From the outlet of Totogatic Lake in Bayfield County located in the Southeast Quarter of the Northwest Quarter of Section 34, Township 43 North, Range 8 West to the upstream end of Nelson Lake and southern edge of the walleye spawning refuge located in Sawyer County in the Southwest Quarter of the Northwest Quarter of Section 14, Township 42 North, Range 9 West.~~

~~This portion of the river could also be described as follows: From the outlet of Totogatic Lake in Bayfield County to the upstream end of Nelson Lake and southern edge of the walleye spawning refuge located in Sawyer County.~~

~~Reach 2: From a point 500 feet below the Totogatic Wildlife Area dam in Washburn County located in the Southwest Quarter of the Southeast Quarter of Section 12, Township 42 North, Range 10 West to the upstream end of the Colton Flowage in Washburn County which is the south edge of the Northeast Quarter of the Northeast Quarter of Section 5, Township 42 North, Range 10 West.~~

~~This portion of the river could also be described as follows: From a point 500 feet below the Totogatic Wildlife Area dam in Washburn County to the upstream end of the Colton Flowage in Washburn County.~~

~~Reach 3: From the outlet of the Colton Flowage in Washburn County, a point 500 feet below the dam forming the Colton Flowage located in the Southwest Quarter of the Northeast Quarter of Section 6, Township 42 North, Range 10 West to the upstream end of the Minong Flowage in Douglas County, which is the northern boundary of the South One-half of Section 32, Township 43 North, Range 12 West.~~

~~This portion of the river could also be described as follows: From a point 500 feet below the dam forming the Colton Flowage in Washburn County to the upstream end of the Minong Flowage in Douglas County.~~

~~Reach 4: From the Washburn County Highway 1 bridge located below the Minong Flowage which is the southern edge of the County Highway 1 corridor located in the Northeast Quarter of the Southwest Quarter of Section 13, Township 42 North, Range 13 West to the confluence with the Namekagon River in Burnett County located in the Northwest Quarter of the Northwest Quarter of Section 35, Township 42 North, Range 14 West.~~

This portion of the river could also be described as follows: From the Washburn County Highway I bridge located below the Minong Flowage to the confluence with the Namekagon River in Burnett County.

Call if you have questions on what I have provided here.

Joe

Joseph Wm. Renville, Attorney
Bureau of Legal Services
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Phone: 608-266-9454
Fax: 608-266-6983
E-mail: Joe.Renville@wi.gov

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From: Barry, Sarah [mailto:Sarah.Barry@legis.wisconsin.gov]
Sent: Thursday, December 04, 2008 11:51 AM
To: Renville, Joe W - DNR
Subject: Wild River Designation Bills

Joe,

Senator Jauch is drafting two Wild River designation bills to be introduced in the upcoming session. DNR officials have provided a description of the portions of the rivers to be designated. I would like your assistance in verifying the appropriateness and accuracy of the designations. Would you please call me? My number is 6-3510. I have both a plain language description and technical descriptions from aerial photos. I met with the LRB drafting attorney this morning and she had some concerns about using the two descriptions together. She was also concerned that the language match up with other descriptions of the rivers used elsewhere. In particular, does it serve as an appropriate description in relation to any real estate or other land parcels bordering the areas and is it accurate?

~~Portions of the Totogatic and a portion of the Brunsweler river will be designated in separate bills.~~

Here is the current drafted language describing the section of the Brunsweler:

SECTION 2. 30.26 (2) (a) 3. of the statutes is created to read:
30.26 (2) (a) 3. The portion of the Brunsweler River, described as follows: from the point at which the Brunsweler River finally leaves the SW-1/4 of Sec. 22, T. 44 N., R. 4 W. downstream to the point at which the Brunsweler River crosses the boundary of the Chequamegon-Nicolet National Forest in the NW-1/4 of Sec. 22, T. 45 N., R. 4 W. This portion of the Brunsweler River shall be known as the Martin Hanson Wild River.

~~And here is the tentative language (not drafted) for the portions of the Totogatic:~~

~~The portions of the Totogatic are as follows:
Reach 1. From the outlet of Totogatic Lake in Bayfield County to the upstream end of Nelson Lake in Sawyer County (from the lake outlet in the SE1/4 NW1/4 Section 31, T. 43N. R. 8W. to the southern edge of the wallaye~~

12/18/2008

spawning refuge in the SW1/4 NW1/4 Section 14, T.42N.-R.9W.).

Reach 2: From the Totogatic Wildlife Area dam in Washburn County to the upstream end of the Colton Flowage in Washburn County (from a point 500 feet below the wildlife area dam in the SW1/4 SE1/4 Section 12, T.42N.-R.10W. to the south edge of the NE 1/4 NE 1/4 Section 5, T.42N.-R.10W.).

Reach 3: From the outlet of the Colton Flowage in Washburn County to the upstream end of the Minong Flowage in Douglas County (from a point 500 feet below the dam forming the Colton Flowage in the SW1/4 NE1/4 Section 6, T.42N.-R.10W. to the northern boundary of the S1/2 of Section 32, T.43N.-R.12W.).

Reach 4: From the Washburn County Highway 1 bridge below the Minong Flowage to the confluence with the Namekagon River in Burnett County (from the southern edge of the CTH 1 corridor in the NE1/4 SW1/4 Section 13, T.42N.-R.13W. to the river mouth in the NW1/4 NW1/4 Section 35, T.42N.-R.14W.).

Sarah Barry

Office of State Senator Bob Jauch

118 South, State Capitol

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STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Sarah Barry Mike Cain

dam language

ch 30 to state or feds

pers

manual code not adopted

30.28(3) → fees

conv w/ Mike Cain

manual, no rules adopted re: fed activities
for ch. 30 and 31

30.28(3) gives inference that feds must
have permits

Brunswelier River Inserts:

- (a) The U.S. Forest Service may maintain the Brunswelier Creek Dam that impounds Beaver Dam Lake that is in place on the effective date of this paragraph. If the U.S. Forest Service removes the dam, the department may authorize restoration activities necessary to restore the natural appearance and function of the river.
- (b) Piers that are in place on the effective date of this paragraph may be maintained or replaced. Replacement of a pier shall be limited to existing dimensions and boat slip densities, but in no case shall exceed the size and length dimensions provided under Wis. Stat. s. 30.12(1g)(f).
- (c) The U.S. Forest Service may maintain or replace the boat landing on Mineral Lake that is in place on the effective date of this paragraph.

lang from Meg Cornell

want
abandonment /
ie natural detrior
wanted

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV

Insert

The bill also ^{specifically} ~~authorizes DNR to~~ allows for the maintenance ^{and the maintenance of} and ^{or} ~~repair~~ of piers and boat landings ^{replacement} and a dam that currently are in place on the designated portion of the Brunswiler River.

- 1 AN ACT *to renumber and amend* 30.26 (2); *to repeal and recreate* 30.26 (4)
- 2 (title); and *to create* 30.26 (2) (a) 3. and 30.26 (5) of the statutes; **relating to:**
- 3 designating a portion of the Brunswiler River as a wild river.

Analysis by the Legislative Reference Bureau

Under current law, the legislature may designate rivers as part of the state's wild river system. The Department of Natural Resources (DNR) administers the system to preserve, protect, and enhance a river's natural beauty and unique recreational value. This bill adds to the wild river system a portion of the Brunswiler River and requires that this portion of the river be known as the "Martin Hanson Wild River." The bill also specifically authorizes DNR to remove a dam and the U.S. forest service to maintain, repair, and replace a boat landing and pier in the designated area.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 SECTION 1. 30.26 (2) of the statutes is renumbered 30.26 (2) (a) (intro.) and
- 5 amended to read:

30.26 (2) (a) (intro.) The following rivers, or portions of rivers, are designated as wild rivers:

1. The Pike River in Marinette County, and the
2. The Pine River and its tributary Popple River in Florence and Forest
counties ~~are designated as wild rivers and~~.

(b) The rivers designated under par. (a) shall receive special management to assure their preservation, protection and enhancement of their natural beauty, and their unique recreational and other inherent values in accordance with guidelines outlined in this section.

SECTION 2. 30.26 (2) (a) 3. of the statutes is created to read:

30.26 (2) (a) 3. The portion of the Brunsweler River, described as follows: from the point at which the Brunsweler River ~~finally~~ leaves the SW-1/4 of Sec. 22, T. 44 N., R. 4 W. downstream to the point at which the Brunsweler River crosses the boundary of the Chequamegon-Nicolet National Forest in the NW-1/4 of Sec. 22, T. 45 N., R. 4 W. This portion of the Brunsweler River shall be known as the Martin Hanson Wild River.

SECTION 3. 30.26 (4) (title) of the statutes is repealed and recreated to read:

30.26 (4) (title) SNOWMOBILES AND ALL-TERRAIN VEHICLES.

SECTION 4. 30.26 (5) of the statutes is created to read:

30.26 (5) BRUNSWELER RIVER. (a) As part of the management of the designated portion of the Brunsweler River, all of the following shall apply:

1. (a) The ~~department~~ ^{U.S. Forest Service} may ~~either maintain or remove~~ the dam in Beaver Dam Lake that is in place on the effective date of this paragraph [LRB inserts date].

If the ~~department removes~~ the dam, the department may carry out restoration activities to restore the natural appearance of the lake and the river.

~~the U.S. Forest Service receives authorization from the department to abandon~~ receives authorization from the department to abandon

1

2. ~~(b)~~ The U.S. forest service may maintain or replace the boat landing ~~or the pier~~

2

on Mineral Lake that ^{is} are in place on the effective date of this paragraph [LRB

3

inserts date]. Any replacement of the pier shall meet the requirements relating to

4

size and the number of boat slips set forth in s. 30.12 (1g) (f).

5

(END)

INS 3-4

piers

(c) Any ~~per~~ pier that is in place on the river on the effective date of this paragraph ~~[no date]~~ [LRB inserts date] may be maintained or replaced. The replacement of any such ~~per~~ pier shall be limited to the existing dimensions, ~~or to the dimensions specified in s. 30.12 (1g) (f), which results in a smaller~~ but in no case may the pier exceed the size and length dimension specified in s. 30.12 (1g) (f). The replacement pier may have no more boat slips than

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0143/P1ins

MGG:KJ:f

bjk

3. Any pier that is in place on the river on the effective date of this paragraph
> [LRB inserts date] may be maintained or replaced. A replacement pier may have
no more boat slips than did the original pier. A replacement pier shall either be
limited to the dimensions of the original pier or the dimension requirements
specified in s. 30.12 (1g) (f), whichever dimensions result in a smaller square area for
the pier and any accompanying platform.

(b) Compliance with any applicable permitting or other requirements under
> chs. 30 and 31 is required for the maintenance and replacement activities authorized
under this subsection.

Barman, Mike

From: Barry, Sarah
Sent: Wednesday, January 07, 2009 9:23 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-0143/1 Topic: Designation of Brunsweler River as wild river

Please Jacket LRB 09-0143/1 for the SENATE.